

PTO/SB/61 (09-04)

Approved for use through 07/31/2008, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional) PA074-US
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>First Named Inventor: James Richard Spears</p> <p>Application Number: 09/632,530</p> <p>Filed: August 4, 2000</p> <p>Title: Apparatus and Method for Oxygenating Wastewater</p> <p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p> </div> <div style="width: 35%; text-align: right;"> <p>Art Unit: 1724</p> <p>Examiner: Barry, Chester T.</p> </div> </div> <div style="text-align: right; margin-top: 20px;"> <p>RECEIVED CENTRAL FAX CENTER MAR 24 2005</p> </div> <p style="text-align: center; margin-top: 20px;">NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.</p> <p style="text-align: center;">APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay. <p>1. Petition fee</p> <p><input checked="" type="checkbox"/> Small entity - fee \$ <u>250.00</u> (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Other than small entity - fee \$ _____ (37 CFR 1.17(l)).</p> <p>2. Reply and/or fee</p> <p>A The reply and/or fee to the above-noted Office action in the form of a <u>Supplemental Response</u> (identify the type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B The issue fee of \$ _____</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p>	

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.

MAR 24 2005

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UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Margaret A. Kivinski
Signature

March 24, 2005

Date

Margaret A. Kivinski, P.E., Esq.

Typed or printed name

2400 Michelson Drive

Address

Irvine, California 92612-1310

Address

38,517

Registration Number, if applicable

(949) 757-1999

Telephone Number

Enclosure ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unavoidable delay☒ (Exhibit A to Statement)

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

March 24, 2005

Date

Tamara J. McGovern
Signature

Tamara J. McGovern

Typed or printed name of person signing certificate

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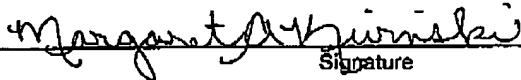
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

March 24, 2005

Date

Margaret A. Kivinski, P.E., Esq.

38,517

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

I, Margaret A. Kivinski, am attorney of record in this matter for the applicants.

1. On June 2, 2004, an Office Action was issued in this matter by Examiner Chester T. Barry.

2. On October 4, 2004, I timely filed what I believed to be a full and complete response, addressing all rejections and including amendments to the claims and remarks explaining how the cited prior art was avoided. (Exhibit A)

3. The Examiner first responded on December 27, 2004 stating only that the response of October 4, 2004 was non-compliant because in the Listing of Claims, claim 79 of the application was listed as "previously added" instead of "previously presented," but that the amendment appeared to be a *bona fide* attempt to be a reply, giving applicant one month to re-submit the corrected section.

4. I promptly filed a Response with a corrected Listing of Claims on January 4, 2005.

5. On March 15, 2005 the Examiner issued a notice to Applicant that the response originally filed on October 4, 2004 was now considered not fully responsive, causing the application to go abandoned.

6. I promptly prepared and filed the accompanying petition to revive the abandoned application and attached supplemental response to the October 4, 2004 Office Action.

7. Because I had reason to believe I timely and satisfactorily responded to the October 4, 2004 Office Action, and did not learn the response was deemed not fully responsive (a determination with which the Applicant does not agree) until after the six month statutory period for reply, I had no opportunity to respond earlier and in a manner that would have prevented the application from going abandoned.

(Please attach additional sheets if additional space is needed.)